

EXHIBIT A

Page 1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

- - -
In Re: : Chapter 11
: :
: Case No.
W.R. GRACE & CO., et al, : 01-01139 JKF
: :
: (Jointly
Debtors : Administered)

- - -
Friday, May 1, 2009

- - -
Oral deposition of PETER VAN

N. LOCKWOOD, ESQUIRE, taken pursuant to
notice, was held at the offices of CAPLIN
& DRYSDALE, One Thomas Circle N.W., Suite
1100, Washington, DC 20005, commencing
at 9:43 a.m., on the above date, before
Lori A. Zabielski, a Registered
Professional Reporter and Notary Public
in and for the Commonwealth of
Pennsylvania.

- - -
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2 provision, essentially that we are
 3 going to transfer the assets to
 4 the Trust and if you got a claim
 5 or an interest in the assets, then
 6 you can litigate that claim
 7 against the Trust.

8 But we are going, I guess,
 9 have potential confirmation
 10 objections about whether there are
 11 any such claims. I mean, the mere
 12 assertion of a claim doesn't mean
 13 that it's valid.

14 BY MR. BROWN:

15 Q. Okay. If I can direct your
 16 attention down to 7.2.4, which is
 17 entitled Assignment and Enforcement of
 18 Asbestos PI Trust Causes of Action.

19 A. Yes.

20 Q. I must confess, I am a bit
 21 baffled by this one, so I need some help
 22 with it.

23 **How do Asbestos PI Trust
 24 causes of action differ from asbestos
 insurance rights?**

2 A. Well, I have to go back and
 3 look at the definitions to answer that
 4 question.

5 Well, I think asbestos PI
 6 Trust causes of action does include
 asbestos insurance rights.

7 Q. What else does it include?

8 A. Well, if you look at the
 9 definition, it includes defenses such
 10 that, for example, if a claimant says, I
 11 have a valid claim against Grace that's
 12 channelled to the Trust and the Trust
 13 disagrees with it, the Trust retains all
 14 the defenses to that claim that Grace
 15 would have had. That's clause A under
 16 definition 47.

17 Q. Okay.

18 A. Clause B is, for example,
 19 contribution rights, et cetera. So, for
 20 example, if the Trust has -- if Grace has
 21 contribution rights that it has not
 22 asserted and that which are still valid
 23 against a codefendant in a tort system
 24 and the codefendant brings in indirect

1 Asbestos PI Trust claim against the
 2 Trust, the Trust could assert Grace's
 3 contribution rights as a counterclaim to
 4 that. That's two categories of things
 5 that this is intended to include.

6 Q. Okay. Let's go to page 64,
 7 7.2.6, Creation and Termination of the
 8 Asbestos PI TAC.

9 A. Correct.

10 Q. It says, "On or before the
 11 Confirmation Date, the initial members of
 12 the Asbestos PI TAC shall be selected by
 13 the Asbestos PI Committee."

14 That has already occurred,
 15 correct?

16 A. Correct. They are
 17 identified in the Asbestos PI Trust
 18 Agreement.

19 Q. Okay. How many actual
 20 committee members are there on the
 21 Asbestos PI Committee?

22 A. I don't remember. But we
 23 have the Disclosure Statement here. I
 24 could re quickl find out b ust

1 looking at it where they are identified.

2 Q. Okay.

3 A. It's certainly more than the
 4 four that are going to be on the TAC.

5 Q. Okay. Is it fair to say
 6 that the actual committee members who are
 7 asbestos claimants act through their tort
 8 counsel in connection with their
 9 obligations as committee members?

10 A. As a general proposition,
 11 that's true. In any given committee on
 12 any given issue, an individual member
 13 might choose to show up and act on their
 14 own behalf, and there have been some
 15 examples in the past where that has
 16 occurred.

17 But, as a general
 18 proposition, the committee members are
 19 blue-collar folks of limited legal
 20 knowledge, and they delegate to their
 21 personal injury lawyers their sort of
 22 activities acting for them as an agent on
 23 these committees.

24 Qka . You are counsel to

1 the Asbestos PI Committee. You don't
 2 have occasion, do you, to deal directly
 3 with the actual claimants?

4 MR. FINCH: Object to the
 5 form.

6 THE WITNESS: That's not
 7 entirely true. I get calls
 8 periodically that I just got this
 9 incomprehensible Disclosure
 10 Statement from Grace and could you
 11 please tell me what it means or
 12 something. But as a general
 13 proposition --

14 MR. FINCH: Transfer to it
 15 to Finch.

16 THE WITNESS: Or where do I
 17 file my proof of claim.

18 But, as a general
 19 proposition, I don't nor do other
 20 folks at Caplin & Drysdale deal
 21 directly with original committee
 22 members.

23 BY MR. BROWN:

24 **You deal with personal**

1 committee?

2 A. Yes.

3 Q. And do those committee
 4 members for those firms act through those
 5 four gentlemen?

6 A. On the committee?

7 Q. Yes.

8 A. Generally, yes.

9 Q. Okay. So is it fair to say
 10 that Mr. Rice, Mr. Weitz, Mr. Cooney, and
 11 Mr. Budd selected themselves to be
 12 members of the TAC?

13 A. No, because there are many
 14 other members of the committee, and the
 15 committee as a whole, which, in this
 16 particular case, I believe has a majority
 17 of members that are not these four
 18 gentlemen, decided which of their members
 19 they thought would be appropriate persons
 20 to put on the TAC.

21 Q. And how was that decided?

22 A. As far as I know, they had
 23 informal discussions, and they had a
 24 committee meeting. I don't remember

1 **injury attorneys, correct?**

2 A. As a general proposition, we
 3 deal with the PI lawyers who have been
 4 appointed by their client committee
 5 member to act on their behest in the
 6 committee.

7 Q. Now, the TAC members are
 8 John Cooney, Perry Weitz, Joe Rice,
 9 and -- who was the fourth one?

10 A. Well, I can tell you by
 11 looking at the PI Trust Agreement, which
 12 is Exhibit-2 to the Plan and looking at
 13 the signature page, we should have, which
 14 is --

15 Q. Russell Budd.

16 A. Russell Budd, John Cooney,
 17 Joseph Rice, and Perry Weitz.

18 Q. And each of them works for a
 19 law firm, correct?

20 A. Each of them is a partner a
 21 law firm, yes.

22 Q. Sorry. I didn't mean to...

23 Now, does each of those law
 24 firms have a client that sits on the

1 whether there were votes or anything like
 2 that. But at the end of the day, through
 3 some sort of nomination or informal
 4 self-nomination or self-nomination,
 5 speeches, lobbying, discussions, what
 6 have you, there came a time at which the
 7 committee voted to select these four
 8 people.

9 Q. Okay.

10 A. And I might add that the
 11 Future Claimants Representative had a
 12 sort of a generalized oversight in the
 13 sense that while the Plan contemplates
 14 that the committee would nominate the
 15 TAC. If the FCR thought, for some reason
 16 or another, that somebody had been put on
 17 the TAC that was a real bad idea, the
 18 committee would probably have had to
 19 listen to the Future Representative's
 20 views on that even though the Futures Rep
 21 did not have sort of a formal veto or
 22 role in that process.

23 Q. Okay. I want to now turn to
 24 the -- well, it's 69 on my version.

2 **Section 7.7, Conditions to Occurrence of**
 3 **the Confirmation Date, and I want to**
 4 **focus your attention first on (g).**

5 A. I see it.

6 Q. **What are the securities that**
 7 **are funding the Asbestos PI Trust?**

8 A. The warrant and the Deferred
 9 Payment Agreement, which is a debt
 10 obligation, which also includes, I
 11 believe, a promissory note or promissory
 12 notes.

13 Q. **Can you describe for me the**
 14 **circumstances under which the asbestos PI**
 15 **claim -- excuse me -- the Asbestos PI**
 16 **Trust will be funded with dividends?**

17 A. In the event that it
 18 exercises the warrant and acquires stock
 19 pursuant to that exercise and the stock
 20 pays dividends, it will get dividends.

21 Q. **And if the warrant is not**
 22 **exercised?**

23 A. Then it won't get dividends.

24 Q. **What about if there is a**
 25 **default under the deferred payment note?**

2 A. My recollection is that the
 3 Trust has the right to get 50.1 percent
 4 of the stock of the Debtor under those
 5 circumstances.

6 But, again, the terms of --
 7 that's a very complicated set of
 8 documents, and the precise terms of that
 9 are whatever the document states. I can
 10 only give you a sort of a very
 11 generalized description.

12 Q. **Okay. Let me draw your**
 13 **attention now down to (I), condition (I).**

14 A. Yes, I see it.

15 Q. **What does that mean?**

16 MS. HARDING: Object to
 17 form.

18 THE WITNESS: Well, what it
 19 means is that if you didn't have a
 20 TDP, which includes things like a
 21 payment percentage and mechanisms
 22 for trying to try to limit the
 23 ways in which the Trust expends
 24 monies on claims, and you just had
 sort of a come in, sue the Trust

1 and the tort system, et cetera,
 2 you would have a
 3 first-come-first-serve operation
 4 where there was the distinct
 5 possibility that, as it happened
 6 in the Manville Trust at the very
 7 beginning, all the money would run
 8 out the door at the front end, and
 9 there wouldn't be anything left
 10 for future claimants, which would
 11 violate 524(g).

12 BY MR. BROWN:

13 Q. Okay. Well, the way that
 14 this provision is written suggests that
 15 any procedures other than those that are
 16 set forth in this Plan would defeat the
 17 purposes of Section 524(g).

18 Is that what is intended
 19 here?

20 MR. FINCH: Object to form.

21 MS. HARDING: Object to
 22 form.

23 BY MR. BROWN:

24 Q. **Are there other options, is**

1 **the question?**

2 A. If the question is could one
 3 hypothesize a somewhat different set of
 4 TDPs that had somewhat different
 5 procedures, the answer is depending on
 6 what that different TDP set of procedures
 7 was, you might be able to say the same
 8 thing about it.

9 The purpose of this thing is
 10 to say that this structure, according to
 11 the court, satisfies the requirements of
 12 524(g) that say that you have to
 13 establish this requirement.

14 I mean, this is a finding of
 15 fact that is intended to have the court
 16 rule that the Plan does, in fact, meet
 17 the requirements of a subsection of
 18 524(g).

19 Q. **You could, in fact, have a**
 20 **Plan that met the qualifications for**
 21 **524(g) that actually had a role for**
 22 **asbestos insurance entities, correct?**

23 MR. FINCH: Object to form.

24 MS. HARDING: Object to